

REMARKS

Claims 1 and 27-46 remain pending in the application. Claim 1 has been amended. Claims 2-26 have been cancelled herein. Claims 27-46 have been added. By these amendments, no new matter has been added. Reconsideration and review of the application is respectfully requested.

Before addressing the merits of the grounds of rejection, Applicant provides the following brief description of the invention. The claimed invention generally relates to an apparatus for simulating the movement of an oscillating light unit that is typically mounted on the front of a train engine. An oscillating light unit, such as the Mars Unit manufactured by the Mars Signal Light Company, typically comprises a lamp/light and an oscillating apparatus that causes the lamp/light to oscillate in any number of patterns, such as a sweeping "figure 8" pattern, a circular or elliptical pattern, etc. In the context of model trains, it is generally not practical to implement a miniaturized moving part, such as the oscillating apparatus, to move the a lamp/light in a predetermined pattern. The claimed invention simulates the oscillation movement pattern of a Mars Unit with without using moving parts. Specifically, the claimed invention comprises one or more stationary lights arranged in a predetermined pattern (e.g., a "figure 8" pattern), wherein subsets of the stationary lights are energized intermittently to mimic a single lamp/light that moves or oscillates in the predetermined pattern.

The Examiner rejected Claims 1-17 under 35 U.S.C. § 103(a) as being unpatentable over Molinaroli (US 6,265,984) in view of Wolf et al. (US 6,655,640). These rejections are respectfully traversed.

With respect to Claim 1, the Examiner asserts that the claimed circuitry is disclosed by Molinaroli's discussion of a display PC board 11 controlled by a microprocessor 12, which is fed power and data via multi-conductor cable 112 for displaying the illusion of alpha-numeric characters and/or 2-D, 3-D shapes that can be changed or moved from one character/sign to another by the user (Figures. 1-5, 13, and

14; column 3, lines 40-53; column 6, lines 7-67; column 12, lines 40-46; and column 13, lines 21-52). The Examiner acknowledges that Molinaroli fails to disclose such an apparatus for a toy model to simulate the movement of a Mars Unit light display. The Examiner argues, however, that Molinaroli teaches that the light emitting diode ("LED") display PC board can be in the form of miniature versions for use in toy cars (Figure 25; column 10, lines 58-63; and column 19, lines 52-62).

The Examiner also asserts that Wolf et al. disclose a toy model train 11 that includes a light deliver circuit 204 having a pulse width modulator for obtaining desired brightness and colors in response to input into a remote control 16 by the user (Figures 1-4; column 5, lines 31-45; column 37, lines 17-26; and column 42, lines 10-18. The Examiner states that it would have been obvious to one of skill in the art at the time the invention was made to substitute the toy model train of Wolf et al. for the motorized car of Molinaroli since both the toy car and the toy train are operated by electrical motors and can have sound and light enhancements built into them.

Applicant traverses this rejection and the Examiner's characterization of the cited references. A closer examination of the primary prior art reference cited by the Examiner – namely, Molinaroli – reveals fundamental differences from the apparatus recited in Claim 1. Molinaroli discloses a pre-programmed, display device for forming and displaying images, comprising electrically powered light emitters (preferably LEDs) in one or more generally continuous rows that are under the direct control of a microprocessor(s). Column 1, lines 6-13. The display device is designed to be moved in a path generally perpendicular with the row(s) of light emitters and further comprises one or more motion or speed sensors, wherein the microprocessors turn the light emitters on and off in a time-controlled manner, such that graphics, words, or messages are displayed when the display device is moved at or above a rate of speed sufficient to be viewed by humans. Column 1, line 55 – column 2, line 4. The display devices disclosed in Molinaroli rely on the motion or speed sensors (e.g., the centrifugal switches 16 shown in Figure 2, the reed switches 17 shown in Figure 5, and the

photosensors 18 shown in Figure 17) to enable the microprocessor to establish the direction of movement, and thereby enable proper display and timing. Column 3, lines 58-66. The display device must be moved by some means, such as an external source of motion (e.g., a car or a user's hand) or a source of motion within the display device itself (e.g., a motor) in order for the display device to work. *Id.*

In contrast, the apparatus recited in Claim 1 does not require motion or speed sensors, nor does it require that the apparatus be moved by an external or internal source of motion. The claimed apparatus comprises a lamp display having at least one stationary light, wherein the at least one stationary light is energized by a lamp controller that is in electrical communication with a processor. The lamp controller receives a processor output signal from the processor and converts this signal into a controller output signal that energizes the at least one light stationary light intermittently to simulate an oscillating unit light display, such as the Mars Unit. As such, the actual movement of the lamp display is not required to simulate the movement the oscillating light unit.

A *prima facie* rejection for obviousness requires a disclosure or suggestion of every element of the claim in the cited reference or references. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Molinaroli, alone or in combination with Wolf et al., must identically teach or suggest every element of Claim 1, arranged as in Claim 1. See M.P.E.P. § 2143, at 2100-125 (Sept. 2004). Claim 1 recites an apparatus for a model train that "energize[s] the at least one stationary light intermittently to simulate the movement of the oscillating light unit without requiring actual movement of the lamp display." However, Molinaroli, alone or in combination with Wolf et al., fail to teach or suggest the simulation of the oscillating light unit without actual movement of the lamp display.

Claims 2-17 have been canceled herein. Claims 27 - 46, which depend from Claim 1, are deemed patentable for the same reasons stated above with respect to Claim 1, and because of the additional limitations set forth therein. Since the prior art

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references fail to teach or suggest every element of Claims 1 and 27 - 46, Applicant respectfully requests that the rejection of these claims be withdrawn.

The Examiner rejected Claims 18-26 under 35 U.S.C. § 103(a) as being unpatentable over Molinaroli and Wolf et al., and further in view of Wainwright (US 6,651,365). Claims 18-26 have been canceled herein.

In view of the foregoing, the Applicant respectfully submits that Claims 1 and 27 - 46 are in condition for allowance. Reconsideration and withdrawal of the rejections is respectfully requested, and a timely Notice of Allowability is solicited. If it would be helpful to placing this application in condition for allowance, the Applicant encourages the Examiner to contact the undersigned counsel and conduct a telephonic interview.

To the extent necessary, Applicant petitions the Commissioner for a two-month extension of time, extending to September 15, 2005, the period for response to the Office Action dated April 15, 2005. The Commissioner is authorized to charge the amount of \$450.00 to Deposit Account No. 50-0639 for the two-month extension of time pursuant to 37 CFR §1.17(a)(2). The Commissioner is also authorized to charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-0639.

Respectfully submitted,



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